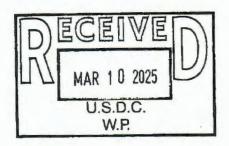
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Hon. Vito Genna, Chief Clerk Southern District of New York White Plains courthouse 300 Quarropas Street White Plains, N.Y. 10601-4150 Bhupendra K Shah 540 Highview Avenue Pearl River, NY 10965

March 7, 2025

Re: Docket # 04 CV 07342 (CLB)(LMS)

Notice of motion under 60(b)(5) of F.R.C.P.

Dear Ms Genna:

Good morning!

Since Hon. Charles Brieant rests in heaven, I do not know the name of a judge to whom I should send this Notice of motion. Therefore, I am enclosing the following papers to you for forwarding them to the appropriate judge:

- 1. Proof of Service
- 2. Notice of Motion under Rule 60(b)(5) of F.R.C.P.
- 3. Memorandum of Law in support of the motion for relief from judgment invoking Rule 60(b)(5) of F.R. C.P.

If you need any other information, please do not hesitate to Email me at kbshah922@gmail.com.,

Respectfully Submitted

Pro Se Bhupendra K Shah

Cc. Mr Mark Rosenzweig Esq N.Y. S. Office of the Attorney General 44 South Broadway White Plains, NY 10601 Document 56 Filed 06/18/25 Page 2 of 3 Page 2 of 3

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Bhubendra K Shah Write the full name of each plaintiff or petitioner. Case No. 04 CV 07342
-against-
NOTICE OF MOTION Helen Hayes Hospital and N.Y. STATE Department of Health Write the full name of each defendant or respondent.
PLEASE TAKE NOTICE that Plaintiff or defendant Bhubendra K. Shah name of party who is making the motion
requests that the Court:
to grant this motion too relieb from
Judgment entered on May 23, 2006 invoking
Rule 60 (b) (5) of F.R.C.P.
Briefly describe what you want the court to do. You should also include the Federal Rule(s) of Civil Procedure or the statute under which you are making the motion, if you know.
In support of this motion, I submit the following documents (check all that apply): a memorandum of law
my own declaration, affirmation, or affidavit
☐ the following additional documents:
March 7, 2025 Bhubandra Ki Shah Signature
Bhubendra K Shale Prison Identification # (if incarcerated)
540 Highview W. Pearl River NY 10965 Address City State Zip Code
745-623-6158 KD Shall 922 @g mail: Com Telephone Number (If available) E-mail Address (if available)

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AFFIRMATION OF SERVICE BY MAIL

STATE OF NEW YORK COUNTY OF ROCKLAND SS:

I, BHUPENDRA K SHAH, declare under penalty of perjury that I on March 7, 2025, I served one copy of "Memorandum of Law in support of the motion for relief from judgement invoking Rule 60(b)(5) of F.R.C. P." to Attorney Mr. Mark Rosenzweig (or any other attorney) at his last known address(es) set forth below:

Mr. MarkRosenzweig (or any other attorney)
N.Y. Office of the Attorney General
44 South Broadway
White Plains, N.Y. 10601.

March 7, 2025

(Signature) resulpende K. Shah

(Print Name) Bhupendra K Shah

Plaintiff's Rule 60(b) Motion is denied. The basis for the motion is a purported change in the law from when Judge Brieant granted summary judgment in favor of Defendants in 2006. (Dkt. No. 32.). The basis for the Motion, which Defendants properly note should be construed as being governed by Rule 60(b)(6), is the Supreme Court's decision in Muldrow v. City of St. Louis, Missouri, in which the Court held that, "[a]Ithough an employee must show some harm from a forced transfer to prevail in a Title VII suit, she need not show that the injury satisfies a significance test." 601 U.S. 346, 350 (2024).

As Defendants note, "[i]ntervening developments in the law by themselves rarely constitute the extraordinary circumstances required for relief under Rule 60(b)(6)." Agostini v. Felton, 521 U.S. 203, 239 (1997). And so it is here. Summary judgment was granted in this case, not because Palintiff failed to establish a harm sufficient to support his discrimination claim as it related to Plaintiff's 2002 transfer, but because he failed to establish either that he applied for a promotion or that the transfer was motivated by discrimination. (Dkt. 45-1 at 33.). Moreover, to the extent Plaintiff seeks to shoe-horn a 1997 transfer, that claim would be untimely for the reasons given in the Report and Recommendation adopted by Judge Brieant. (Dkt. 45-1 at 2-22.). Therefore, there is no reason to doubt the viability of 2006 judgment in the wake of the Muldrow decision.

6/18/25